



# General Guidelines for Business Participation Goals on State-Assisted Building Projects

December 10, 2025

# State-Assisted Construction General Guidelines

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## Overview

The Massachusetts Supplier Diversity Office (SDO) oversees two programs aimed at diversifying the businesses that participate in state-assisted design and construction projects that are undertaken by political subdivisions: the Municipal Construction Affirmative Marketing Program (MCAMP) and the Veterans Business Program (VBP).<sup>1</sup> Both MCAMP and the VBP apply only to ‘vertical’ design and construction projects (projects with four walls and a roof, generally speaking). MCAMP is limited to only such projects that are undertaken by a political subdivision and are state-assisted, while the VBP applies to those same projects, as well as to projects from state agencies and other public entities that are not political subdivisions.

A list of currently certified Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), Veteran Business Enterprises (VBEs), and Service-Disabled Veteran-Owned Business Enterprises (SDVOBEs) in the design and construction fields can be found by searching the [SDO’s certification directory](#).

All questions concerning MCAMP or the VBP may be directed to [SDO.Construction@mass.gov](mailto:SDO.Construction@mass.gov).

## MCAMP Requirements

### MCAMP Overview

MCAMP requires political subdivisions (hereinafter referred to as Awarding Authorities) to incorporate Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) participation goals into both their design and construction procurements for contracts for the construction, reconstruction, alteration, remodeling, repair, or demolition of any public building<sup>2</sup> by any political subdivision that includes funding provided, whether in whole or in part, by the Commonwealth. Such funding includes, for example, the Massachusetts School Building Authority (MSBA) funding, funding in any legislative appropriation, grant awards, reimbursements, commitments to use state funds, and the like. To count towards participation, the business must be an SDO-certified WBE or MBE at the time of contract execution.<sup>3</sup> Certification as a Disadvantaged Business Enterprise (DBE), certification as an MBE or WBE by any agency other than the SDO, or submission of an application to the SDO for certification as an MBE or WBE shall not confer SDO certification status on a firm for purposes of participation credit.

### MCAMP Goal Setting

Each Awarding Authority must enforce the current Affirmative Marketing Goals and methodology developed by the Division of Capital Asset Management and Maintenance (DCAMM) in consultation with the SDO. Pursuant to a disparity study conducted by DCAMM, the MBE and WBE goals are now set on a project-specific basis for all projects estimated to cost \$150,000 or more.

To ensure goals are set properly, Awarding Authorities should contact [SDO.Construction@Mass.gov](mailto:SDO.Construction@Mass.gov) as soon as possible for assistance from the SDO in setting the MBE goal and WBE goal. You will be asked to provide detailed information about the project. The format for this goal request can be found in [Attachment E](#), as well as on our webpage [Request Goals for a Design or Construction Project](#).

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<sup>1</sup> See, [M.G.L. c. 7, Section 61](#). DCAMM administers a similar program, the [Affirmative Marketing Program](#), pursuant to for public building design and construction projects it manages, as well as certain other large state-funded projects, pursuant to [M.G.L. c. 7C, Section 6](#). DCAMM’s program is not the subject of these guidelines.

<sup>2</sup> Awarding Authorities should consult with their own counsel regarding whether or not a project is ‘vertical construction’ for purposes of state procurement law.

<sup>3</sup> Depending on circumstances, MBEs or WBEs must also be certified at the time of commencement of work.

# VBP Requirements

## VBP Overview

VBP requires Awarding Authorities to incorporate Veteran Business Enterprise (VBE) and Service-Disabled Veteran-Owned Business Enterprise (SDVOBE) participation goals into both their design and construction procurements for contracts for the construction, reconstruction, alteration, remodeling, repair, or demolition project by any political subdivision that includes funding provided, whether in whole or in part, by the Commonwealth. Such funding includes, for example, the Massachusetts School Building Authority (MSBA) funding, funding in any legislative appropriation, grant awards, reimbursements, commitments to use state funds, and the like. To count towards participation, the business must be an SDO-certified VBE or SDVOBE at the time of contract execution.<sup>4</sup> As with the MCAMP program, the business must be VBE or SDVOBE certified by the SDO to count towards participation. Certification as a Disadvantaged Business Enterprise (DBE), certification as a VBE or SDVOBE by any agency other than the SDO, or submission of an application to SDO for certification as a VBE or SDVOBE shall not confer SDO certification status on a firm for purposes of participation credit.

## VBP Goal Setting

Effective 01/01/2025, the SDO has set a 3.0% goal for VBE/SDVOBE participation in all state and state-assisted design and construction projects estimated to cost \$150,000 or more.

## Guidelines for MCAMP and Veterans Business Program Compliance

1. Prior to Advertising, Awarding Authorities may submit to the SDO a written request for adjustment(s) of participation goals. [Attachment A](#) (Procedure for Awarding Authorities for Pre-Advertising Adjustment of Participation Goals) explains the process for Awarding Authorities to submit these requests to the SDO.
2. Prior to submission of the Bid, if the Prime Bidder is unable to meet the MBE, WBE, and/or VBE/SDVOBE participation goals due to circumstances beyond its control, the Prime Bidder should submit to the Awarding Authority a request for a participation goal adjustment. [Attachment B](#) (Procedure for Pre-Bid Adjustment of Participation Goals) explains the general process for Prime Bidders to request such an adjustment, with detailed instructions found in [Attachment C](#), Model Bidding Instructions. These Model Bidding Instructions are to be incorporated into Awarding Authority Bidding Documents. **Note that Awarding Authorities must insert the project-specific goal percentages into the associated blank spaces in the Model Bidding Documents.**
3. Model Contract Instructions, found in [Attachment D](#), must be incorporated into the final contract documents with the successful bidder. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor. **Note that Awarding Authorities must insert the project-specific goal percentages into the associated blank spaces in the Model Contract Documents.**
4. Awarding Authorities must utilize the [Supplier Diversity Hub](#) for project reporting.

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<sup>4</sup> Depending on circumstances, VBEs or SDVOBEs participating on VBP projects must also be certified at the time of commencement of work.

# ATTACHMENT A:

## **PRE-ADVERTISING ADJUSTMENT OF BUSINESS PARTICIPATION GOALS**

### **A. AFFIRMATIVE MARKETING AND VETERAN PARTICIPATION GOALS**

Each Awarding Authority must enforce the current Affirmative Marketing Goals, as set on a project specific basis.<sup>5</sup> The veteran participation goal is 3.0%.

### **B. CRITERIA FOR ADJUSTMENT OF GOALS**

At any time prior to the advertising of the bid and after goals are set, an Awarding Authority may, in accordance with M.G.L. c. 7 § 61(n), file a written request with the SDO's Executive Director for an adjustment of participation goals for an individual state-assisted building project.<sup>6</sup> Factors that may be considered in granting an adjustment of the project goals for design and/or construction include any or all the following:

- Actual availability of certified MBEs, WBEs, and/or VBEs/SDVOBEs;
- The geographic location of the project;
- The scope of work of the project including the opportunities for sub-contracting and subdividing the work; and
- Other relevant factors.

Note that adjustments shall only be granted upon the submission of sufficient information proving that good faith efforts were pursued to determine whether a goal is achievable by potential bidders (see paragraph D).

### **C. PROJECT THRESHOLDS**

If the total estimated construction cost of the Project as approved by the Awarding Authority is less than \$150,000, and for design projects when the estimated fee is less than \$150,000, the participation goals for an individual state-assisted building project can be adjusted by the Awarding Authority without filing a formal request with the SDO under paragraph E below.

### **D. DOCUMENTATION THAT WILL BE CONSIDERED IN GRANTING AN ADJUSTMENT WILL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:**

1. A general description of the project, a copy of the detailed project estimates, and the deadline for placement of project advertisements.
2. The reasons that the Awarding Authority or its representative has determined that there are no qualified MBEs, WBEs, and/or VBEs/SDVOBEs.
3. Documentation after reviewing the MBE, WBE, and VBE/SDVOBE listings in the SDO directory that there may be a lack of eligible MBEs, WBEs, and/or VBEs/SDVOBEs to perform the design and construction contract work in the general region of the project.
4. Documentation after reviewing the MBE, WBE, and VBE/SDVOBE listings in the SDO directory that there are no certified businesses within the scopes of work of the project including the opportunity for subcontracting after identifying all subcontracting opportunities.
5. Other Information: the Awarding Authority may also submit any other information supporting its request for adjustment of the MBE, WBE, and/or VBE/SDVOBE participation goals.

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<sup>5</sup> Awarding Authorities should contact the SDO for assistance with goal setting. More information about goal setting is available on the SDO's [Request Goals for a Design or Construction Project page](#).

<sup>6</sup> Pursuant to M.G.L. c. 7 § 61(q), the SDO's Executive Director has set these written procedures to facilitate adjustment requests.

## **E. REQUEST FOR ADJUSTMENT OF DESIGN AND CONSTRUCTION GOALS**

1. Requests by an Awarding Authority for adjustment of MBE, WBE, and/or VBE/SDVOBE Participation Goals on an individual project must be submitted in writing to [SDO.Construction@mass.gov](mailto:SDO.Construction@mass.gov) for review by the SDO's Executive Director no fewer than 14 calendar days before the deadline for placement of advertisements for the contract. Include all documentation with your request.
2. The goals for the design phase and the goals for the construction phase are separate. Therefore, requests for adjustments for each must be requested separately. Design participation may not be substituted for construction participation, nor may construction participation be substituted for design participation. On modular projects, the design services provided under the construction contract are construction-related participation.
3. The requested adjustment must include the reasons for the adjustment as well as any supporting documentation as described above.
4. A written response to the request will be provided to the Awarding Authority prior to the advertising deadline.

# ATTACHMENT B

## PROCEDURE FOR PRE-BID ADJUSTMENT OF BUSINESS PARTICIPATION GOALS

### **A. CRITERIA FOR ADJUSTMENT OF GOALS**

Potential Bidders may request an adjustment of goals on a project-by-project basis before bids are submitted.<sup>7</sup> The Awarding Authority reserves the right to accept and review written requests but does not have the authority to grant such requests made by a General Bidder to adjust the MBE, WBE, and/or VBE/SDVOBE design and construction participation goals established for this contract. Consistent with M.G.L. c. 7 §61(q) and (r), such written requests must demonstrate to the satisfaction of the Awarding Authority that there is no feasible way for a non-MBE, non-WBE, or non-VBE/SDVOBE General Bidder to meet the goals established for this contract and that a “diligent, good faith effort” was made to comply. If this criterion is met, the Awarding Authority must submit the General Bidders request to the SDO. Factors that may be considered in granting an adjustment of the contract goals include the following:

- Actual availability of certified MBEs, WBEs, and/or VBEs/SDVOBEs
- The geographic location of the project.
- The scope of work and opportunities for subcontracting the work.
- Other relevant factors including documented inability by the prospective Bidder to obtain commitments from MBEs, WBEs, and/or VBEs/SDVOBEs sufficient to meet the respective goals after having made a diligent, good faith effort to do so.

### **B. PROCESS FOR REQUESTING ADJUSTMENT OF CONSTRUCTION GOALS**

1. Requests from prospective General Bidders to adjust the MBE, WBE, and/or VBE/SDVOBE participation goals for the Contract must be received by the Awarding Authority in accordance with the deadlines in Attachment C, the Model Bidding Instructions, and must contain all documentation Bidder relies upon for the request.
2. A list of supporting documentation required from Bidders is found in the Model Bidding Instructions, Attachment C, below.
3. The Awarding Authority shall not consider any request to adjust the MBE, WBE, and/or VBE/SDVOBE Participation goals for the Contract that is received after the deadline.
4. Should the Awarding Authority determine that the Request satisfies the criteria as described in Section A, supported by sufficient documentation as described in Section B, the Awarding Authority shall submit the request to [SDO.Construction@Mass.gov](mailto:SDO.Construction@Mass.gov) for review by the SDO’s Executive Director.
5. The SDO shall provide a written response to the Request to the Awarding Authority.
6. Any adjustment of the MBE, WBE, and/or VBE/SDVOBE participation goals for the Contract approved by the Awarding Authority and the SDO must be made by written addendum distributed, by the Awarding Authority, to all persons who have taken out plans for the project within a reasonable period prior to bid submission.
7. Detailed procedures and timelines for the adjustment of MBE, WBE, and/or VBE/SDVOBE participation goals can be found in the attached Model Bidding Instructions, Attachment C.

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<sup>7</sup> Pursuant to M.G.L. c. 7 § 61(r) and (q), the SDO Executive Director has set these written procedures to facilitate adjustment requests, respectively.

# ATTACHMENT C

## **BIDDING INSTRUCTIONS FOR STATE-ASSISTED BUILDING PROJECTS**

TO BE ATTACHED BY AWARDING AUTHORITIES AS AN APPENDIX TO BIDDING INSTRUCTIONS

**GOALS FOR PARTICIPATION BY MINORITY BUSINESS ENTERPRISES (MBE), WOMEN BUSINESS ENTERPRISES (WBE), AND VETERAN BUSINESS ENTERPRISES (VBE)/SERVICE-DISABLED VETERAN BUSINESS ENTERPRISES (SDVOBE), PURSUANT TO M.G.L. c. 7 § 61(n).**

**The MBE, WBE, and VBE/SDVOBE participation goals for this contract are set as follows:**

<b><u>Certification Category</u></b>	<b><u>Goal</u></b>
<b>MBE</b>	<b>____%</b>
<b>WBE</b>	<b>____%</b>
<b>VBE/SDVOBE</b>	<b>3.0%</b>

### **A. MBE, WBE, AND VBE/SDVOBE PARTICIPATION**

The apparent low Bidder's compliance with the requirements of this Section is a pre-requisite for receiving the Award of the Contract.

### **B. PROCEDURE FOR PRE-BID ADJUSTMENT OF MBE, WBE, AND/OR VBE/SDVOBE PARTICIPATION GOALS**

#### **1. Criteria for Adjustment of Goals**

Potential Bidders may request an adjustment of the goals listed above before bids are submitted.<sup>8</sup> The Awarding Authority reserves the right to accept and review written requests but does not have the authority to grant such requests made by a General Bidder to adjust the MBE, WBE, and/or VBE/SDVOBE design and construction participation goals established for this contract. In accordance with M.G.L. c. 7 § 61(q) and (r), such written requests must demonstrate to the satisfaction of the Awarding Authority that there is no feasible way for a non-MBE, non-WBE, or non-VBE/SDVOBE General Bidder to meet the goals established for this contract and that a "diligent, good faith effort" was made to comply. If this criterion is met, the Awarding Authority must submit the General Bidders request to the SDO. Factors that may be considered in granting an adjustment of the contract goals include any or all of the following:

- Actual availability of certified MBEs, WBEs, and/or VBEs/SDVOBEs;
- The geographic location of the project;
- The scope of work and opportunities for subcontracting the work; and
- Other relevant factors, including documented inability by the prospective Bidder to obtain commitments from MBE, WBE, and/or VBE/SDVOBE subcontractors sufficient to meet the respective goals after having made a diligent, good faith effort to do so.

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<sup>8</sup> Pursuant to M.G.L. c. 7 § 61(n), (q) and (r), the SDO's Executive Director has set these written procedures to facilitate adjustment requests.

## 2. Process for Requesting Adjustment of Construction Goals

### Deadlines and Documentation

If **filed Sub-Bids** are solicited for this Contract, requests from prospective General Bidders to adjust the MBE, WBE, and/or VBE/SDVOBE participation goals for this Contract must be received by the Awarding Authority no later than five working days after the list of filed sub-Bidders is distributed by the Awarding Authority to persons who have taken out plans for the Contract. **If there are no filed Sub-Bids** solicited for this Contract, requests to adjust the MBE, WBE, and/or VBE/SDVOBE participation goals for this Contract must be received by the Awarding Authority no later than 10 working days before the date set for the receipt of General Bids.

**THE AWARDING AUTHORITY WILL NOT CONSIDER ANY REQUEST TO ADJUST THE MBE, WBE, AND/OR VBE/SDVOBE PARTICIPATION GOALS FOR THIS CONTRACT THAT IS RECEIVED AFTER THE DEADLINES.**

Requests from prospective General Bidders to adjust the MBE, WBE, and/or VBE/SDVOBE participation goals for this Contract must be received by the Awarding Authority in a timely manner and must contain all documentation the Bidder relies upon for the request. Such documentation shall include, at a minimum, the following:

- A list of all items (including subcontracting, services, and supplies) under the Contract that the Bidder made available to MBEs, WBEs, and/or VBEs/SDVOBEs. The Bidder shall identify all items, other than work to be performed by filed sub-Bidders, that the Bidder did not make available and shall state the reasons for not making such items available, for review by the Awarding Authority and, ultimately, the SDO. The Bidder shall also demonstrate that, where commercially reasonable, subcontracts (including those for the provision of services and materials) were divided into scopes or tasks capable of being performed by MBEs, WBEs, and/or VBEs/SDVOBEs.
- Evidence that the Bidder sent written notices soliciting Bids or proposals to perform or supply the items of work made available by the Bidder to all MBEs, WBEs, and/or VBEs/SDVOBEs qualified to perform such work. The Bidder shall identify (i) each MBE, WBE, and/or VBE/SDVOBE solicited, and (ii) each MBE, WBE, and/or VBE/SDVOBE listed in the SDO directory under the applicable category that was not solicited. The Bidder shall identify the reasons that (i) no qualified MBEs, WBEs, and/or VBEs/SDVOBEs are available, (ii) qualified MBEs, WBEs, and/or VBEs/SDVOBEs did not respond, (iii) there is a lack of eligible MBEs, WBEs, and/or VBEs/SDVOBEs in the geographical region, or (iv) there are no certified MBEs, WBEs, and/or VBEs/SDVOBEs in the scope of work of the project, including the opportunity for subcontracting of work, materials, or services. The Bidder shall also state the date that notices were mailed and provide a copy of the written notice(s) sent.
- Evidence that the Bidder made reasonable efforts to follow up on the written notices sent to MBEs, WBEs, and/or VBEs/SDVOBEs with telephone calls or personal visits in order to determine with certainty whether the MBEs, WBEs, and/or VBEs/SDVOBEs were interested in performing the work. Phone logs or other documentation must be submitted.
- A statement of the response received from each MBE, WBE, and/or VBE/SDVOBE solicited, including the reason for rejecting any MBE, WBE, and/or VBE/SDVOBE that submitted a bid or proposal.
- Evidence of reasonable efforts made, if any, to assist MBEs, WBEs, and/or VBEs/SDVOBEs that needed assistance in obtaining bonding or insurance, or lines of credit with suppliers, if the inability of MBEs, WBEs, and/or VBEs/SDVOBEs to obtain bonding, insurance, or lines of credit is the reason given for the Bidder's inability to meet the MBE, WBE, and/or VBE/SDVOBE goals.

- The Bidder may also submit any other information supporting its request for an adjustment in the MBE, WBE, and/or VBE/SDVOBE participation goals, including without limitation evidence that the Bidder placed advertisements in the Supplier Diversity Hub and in appropriate media and trade association publications announcing the Bidder's interest in obtaining bids or proposals from MBEs, WBEs, and/or VBEs/SDVOBEs and/or sent written notification to MBE, WBE, and/or VBE/SDVOBE economic development assistance agencies, trade groups and other organizations notifying them of the Contract and the work to be subcontracted by the Bidder to MBEs, WBEs, and/or VBEs/SDVOBEs. The Bidder shall also submit any other information reasonably requested by the Awarding Authority to show that the Bidder has taken all actions that could reasonably be expected to achieve the MBE, WBE, and/or VBE/SDVOBE participation goals.

Only good faith requests for goal adjustments will be granted.

Should the Awarding Authority determine that the Request satisfies the criteria as described above, supported by sufficient documentation, the Awarding Authority shall submit the request to [SDO.Construction@Mass.gov](mailto:SDO.Construction@Mass.gov) for review by the SDO Executive Director. **Any adjustment of the MBE, WBE, and/or VBE/SDVOBE participation goals approved for this Contract by the Awarding Authority and the SDO will be made by Awarding Authority in a written addendum distributed to all persons who have taken out plans for the project.**

### **C. REQUIREMENTS FOR APPARENT LOW BIDDER**

1. No later than five working days after the opening of General Bids, the apparent low Bidder shall submit the following documents to the Awarding Authority: (i) a completed Schedule for Participation by MBE, WBE, and VBE/SDVOBE (“Schedule for Participation”) in the form provided by the Awarding Authority (Exhibit A) showing MBE, WBE, and VBE/SDVOBE participation in amounts equal to or exceeding the respective participation goals for this Contract, (ii) a completed Letter of Intent in the form provided by the Awarding Authority (Exhibit B) for each MBE, WBE, and VBE/SDVOBE listed in the Schedule for Participation, and (iii) an SDO most recent certification letter for each MBE, WBE, and VBE/SDVOBE listed in the Schedule for Participation showing that the MBEs, WBEs, and VBEs/SDVOBEs are certified in the area of work for which it is listed on the Letter of Intent.
2. Each Letter of Intent shall identify and describe the work to be performed by the named MBE, WBE, and/or VBE/SDVOBE (the “MBE/WBE/VBE/SDVOBE Work”) with enough specificity to permit the Awarding Authority to identify the items of contract work that the MBE, WBE, and/or VBE/SDVOBE will perform for MBE, WBE, and/or VBE/SDVOBE participation credit. The Awarding Authority reserves the right to reject any Letter of Intent if the price to be paid for the MBE, WBE, and/or VBE/SDVOBE Work does not bear a reasonable relationship to the value of such work under the Contract as determined by the Awarding Authority.
3. Within five working days after receipt of the Schedule for Participation, Letters of Intent, and most recent SDO certification letter or certificate, the Awarding Authority shall review and either approve or disapprove the apparent low Bidder’s submissions. If the apparent low Bidder has not submitted an appropriate Schedule for Participation and appropriate Letters of Intent and most recent SDO certification letter or certificate that establish that the MBE, WBE, and/or VBE/SDVOBE participation goals for the project will be met, the apparent low Bidder will be considered ineligible for Award of the Contract and the Awarding Authority will Award the Contract to the second lowest eligible and responsible Bidder, subject to said Bidder’s compliance with these conditions. If funds are insufficient to award to the second lowest Bidder, the project may have to be re-bid.

4. The Bidder's attention is called to the General Conditions of the Contract which require the Contractor to submit, within 30 calendar days of the Contract Date, signed subcontracts (or, in the case of a material supplier and/or manufacturer, the completed purchase order or invoice) with each MBE, WBE, VBE, or SDVOBE that was listed on the Schedule(s) for Participation.
5. A filed sub-Bidder is required to submit a Schedule for Participation with its Bid, if there is to be any MBE, WBE, or VBE/SDVOBE participation in its contract work. A filed sub-Bidder shall submit a Letter of Intent with its Bid, if it is an SDO-certified MBE, WBE, and/or VBE/SDVOBE. If a filed sub-Bidder intends to sub-subcontract work to an SDO-certified MBE, WBE, and/or VBE/SDVOBE, and the Awarding Authority permits limited sub-subcontracting for purposes of MBE, WBE, and/or VBE/SDVOBE participation, and the filed sub-Bidder wishes that sub-subcontract to be credited toward the participation goals for this Contract, the filed sub-Bidder should submit, with its Bid, a Letter of Intent from each MBE, WBE, and/or VBE/SDVOBE to be used.

**SDO EXHIBIT A**  
**Schedule for Participation — Construction Phase**  
**By Minority-, Women-, and Veteran-/Service-Disabled Veteran-Owned Business Enterprises**

<b>Project Number:</b>	
<b>Project Name:</b>	
<b>Project Street Address:</b>	
<b>Bid Amount:</b>	\$

- i. Any Sub-bidder or lower-tier contractor with MBE, WBE, and/or VBE/SDVOBE participation must attach this to its bid.
- ii. The Prime Contractor must submit this, as well as those of any carried Sub-bidders/lower-tier contractors, to the Awarding Authority within five (5) working days of the opening of General Bids.

**BIDDER CERTIFICATION:**

The Bidder agrees that, if awarded the contract, it will expend at least the amount of the contract set forth below for MBE, WBE, and VBE/SDVOBE participation, consistent with the goals established for this project. For purposes of this commitment, the MBE, WBE, and VBE/SDVOBE designation means that a business has been certified by the SDO as an MBE, WBE, and/or VBE/SDVOBE. The Bidder must indicate the MBE, WBE, and/or VBE/SDVOBE firms that it intends to utilize on the project as follows (attach additional sheets, if necessary):

Company Name & Address	Certification: <sup>9</sup>	Describe Scope of Work (clarify "Labor Only," "Material Only," or "Labor and Material")	[If Supplier] Value of Materials	Dollar Value of Participation <sup>10</sup>
1.			\$	\$
2.			\$	\$
3.			\$	\$
4.			\$	\$
5.			\$	\$

Goal <sup>11</sup>		Commitment	
<b>MBE:</b>	\$	<b>MBE:</b>	\$
<b>WBE:</b>	\$	<b>WBE:</b>	\$
<b>VBE/SDVOBE:</b>	\$	<b>VBE/SDVOBE:</b>	\$

The undersigned hereby certifies that he/she has read the terms and conditions of the contract with regard to MBE, WBE, and VBE/SDVOBE participation and is authorized to bind the Bidder to the commitment set forth above.

<b>Name of Firm:</b>	
<b>Business Address:</b>	
<b>Printed Name of Signatory:</b>	
<b>Authorized Signature:</b>	
<b>Title of Signatory:</b>	
<b>Date Signed:</b>	
<b>Email Address:</b>	
<b>Telephone No.:</b>	

<sup>9</sup> Select **one** of the following: MBE, WBE, VBE, **or** SDVOBE.

<sup>10</sup> For suppliers, 60% of total value counts toward participation credit.

<sup>11</sup> The project-specific MBE goal and the project-specific WBE goal are both established by the SDO in consultation with DCAMM. The VBE/SDVOBE goal is 3.0%.

**SDO EXHIBIT B:**

**Letter of Intent — Construction Phase  
Minority-, Women-, and Veteran-/Service-Disabled Veteran-Owned Business Enterprises Participation**

**[To be completed by any MBE, WBE, VBE, or SDVOBE and submitted with its bid, regardless of tier. Prime Contractor submits all such Letters of Intent to the Awarding Authority within five (5) business days of the opening of General Bids.]**

<b>Project Number:</b>				
<b>Project Name:</b>				
<b>Project Street Address:</b>				
<b>Name of General Bidder submitted to:</b>				
<b>Name of Sub-bidder/lower-tier submitted to:</b>				
<b>Indicate SDO Certification (select all that apply):</b>	<b>MBE</b>	<b>WBE</b>	<b>VBE</b>	<b>SDVOBE</b>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1. This firm intends to perform work in connection with the project identified above.
2. This firm is currently certified by the SDO to perform the work identified below.
3. This firm has not changed its minority, women, veteran, and/or service-disabled veteran ownership, control, or management without notifying the SDO within thirty (30) days of such a change.
4. This firm understands that if the General Bidder/Sub-bidder referenced above is awarded the contract, the Bidder intends to enter into an agreement with this firm to perform the activity described below for the prices indicated. This firm also understands that the General Bidder/Sub-Bidder will make substitutions only as allowed by the terms of the Contract.
5. This firm understands that under the terms of the Contract, only work actually performed by an MBE, WBE, VBE, and/or SDVOBE will be credited toward the MBE, WBE, and/or VBE/SDVOBE participation goals. This firm understands that it cannot assign or subcontract out any of its work without prior written approval of the Awarding Authority, and that any such assignment or subcontracting will not be credited toward MBE, WBE, and/or VBE/SDVOBE participation goals.

**MBE, WBE, AND VBE/SDVOBE PARTICIPATION**

<b>Section / Item Number [If Applicable]</b>	<b>Describe MBE, WBE, and/or VBE/SDVOBE Scope of Work (Clarify "Labor Only," "Material Only," or "Labor and Material")</b>	<b>[If Supplier] Value of Materials</b>	<b>Value of Participation<sup>12</sup></b>
		\$	\$
		\$	\$
		\$	\$
		\$	\$

<b>Total Dollar Value:</b>	\$
<b>Name of MBE/WBE/VBE/SDVOBE Firm:</b>	
<b>Business Address:</b>	
<b>Printed Name of Authorized Signatory:</b>	
<b>Authorized Signature:</b>	
<b>Title:</b>	
<b>Date Signed:</b>	
<b>Email Address:</b>	
<b>Telephone No.:</b>	

<sup>12</sup> For suppliers, 60% of total value counts toward participation credit.

# ATTACHMENT D

## CONTRACT INSTRUCTIONS FOR STATE-ASSISTED BUILDING PROJECTS

### TO BE ATTACHED AS AN APPENDIX TO GENERAL CONDITIONS OF THE CONTRACT

#### **GOALS FOR PARTICIPATION BY MINORITY BUSINESS ENTERPRISES (MBE), WOMEN BUSINESS ENTERPRISES (WBE), AND VETERAN/SERVICE-DISABLED VETERAN BUSINESS ENTERPRISES (VBE/SDVOBE) PURSUANT TO M.G.L. c. 7 § 61(k) and (n).**

##### **1. GOALS**

The goals for minority business enterprise (MBE), woman business enterprise (WBE), and veteran business enterprise/service-disabled veteran business enterprise (VBE/SDVOBE) participation established for this Contract, in accordance with the Massachusetts Veterans Business Program (VBP) and Municipal Construction Affirmative Marketing Program (MCAMP), established pursuant to M.G.L. c. 7 § 61(k), (n), and (p) are as set forth below and in the Owner–Contractor Agreement. To count towards MBE, WBE, and/or VBE/SDVOBE participation, the business must be a Supplier Diversity Office (SDO) certified MBE, WBE, and/or VBE/SDVOBE at the time of contract execution.

<u>Certification Category</u>	<u>Goal</u>
<b>MBE</b>	<u>    </u> %
<b>WBE</b>	<u>    </u> %
<b>VBE/SDVOBE</b>	<b>3.0%</b>

##### **2. MBE, WBE, AND VBE/SDVOBE PARTICIPATION CREDIT**

- A. If the Contractor is itself an MBE, WBE, VBE, and/or SDVOBE, then MBE, WBE, and/or VBE/SDVOBE participation credit shall be given in an amount equal to the Contract Price, net of all estimated and actual payments made to outside firms that are attributable to this Contract. If the Contractor is not an MBE, WBE, and/or VBE/SDVOBE, then MBE, WBE, and/or VBE/SDVOBE participation credit will be given for the value of the Work that is actually performed by each MBE, WBE, or VBE/SDVOBE subcontractor or sub-subcontractor. A firm’s participation shall be credited towards the MBE, WBE, or VBE/SDVOBE goal, as indicated on the Schedule for Participation, but in no event shall a firm’s contract be credited towards more than one goal category.
- B. If the Contractor is a joint venture with one or more MBEs, WBEs, and/or VBEs/SDVOBEs participating in the joint venture, MBE, WBE, and/or VBE/SDVOBE participation credit shall be given to the joint venture as follows:
  - (1) If the joint venture is certified by the SDO as an MBE, WBE, and/or VBE/SDVOBE, then MBE, WBE, and/or VBE/SDVOBE participation credit shall be given in an amount equal to the entire Contract Price, net of all estimated and actual payments made to outside firms that are attributable to this Contract.
  - (2) If the joint venture is not certified as an MBE, WBE, and/or VBE/SDVOBE by the SDO, then MBE, WBE, and/or VBE/SDVOBE participation credit shall be given to the joint venture for the value of the Work that is performed by the MBE, WBE, and/or VBE/SDVOBE joint venture(s), and for the value of the Work that is actually performed by each MBE, WBE, and/or VBE/SDVOBE subcontractor or sub-subcontractor.

If an MBE, WBE, and/or VBE/SDVOBE supplies, but does not install equipment or materials, MBE, WBE, and/or VBE/SDVOBE participation credit shall be given only if the MBE, WBE, and/or VBE/SDVOBE supplier is regularly engaged in sales of equipment or supplies to the construction industry from an established place of business. MBE, WBE, and/or VBE/SDVOBE participation credit shall be given the full amount of the purchase order only if the MBE, WBE, and/or VBE/SDVOBE supplier manufactures the goods or substantially alters them before resale. Otherwise, a contractor may count toward its MBE, WBE, and/or VBE/SDVOBE goal sixty percent (60%) of the total bid price for its expenditures of its materials and supplies required under a contract and obtained from a MBE, WBE, and/or VBE/SDVOBE regular supplier.

### **3. ESTABLISHING MBE, WBE, AND/OR VBE/SDVOBE STATUS**

- A. MBE participation credit shall be given for the work performed by MBEs only, WBE participation credit shall be given for the work performed by WBEs only, and VBE/SDVOBE participation credit shall be given for the work performed by VBEs/SDVOBEs only. For example, MBE participation may not be substituted for WBE or VBE/SDVOBE participation, nor may WBE or VBE/SDVOBE participation be substituted for MBE participation, etc.
- B. An MBE, WBE, and/or VBE/SDVOBE shall be considered as an MBE, WBE, and/or VBE/SDVOBE respectively only if it has been certified by the SDO in its respective certification category at the time of contract award.<sup>13</sup>
- C. Certification as a disadvantaged business enterprise (“DBE”), certification as MBE, WBE, and/or VBE/SDVOBE by any agency or organization other than the SDO, or submission of an application to the SDO for certification as an MBE, WBE, and/or VBE/SDVOBE shall not confer MBE, WBE, and/or VBE/SDVOBE status on a firm for the purposes of this Contract.

### **4. SUBCONTRACTS WITH MBEs, WBEs, AND/OR VBEs/SDVOBEs**

Within 30 days after the award of this Contract, the Contractor shall (i) execute a subcontract with each MBE, WBE, and/or VBE/SDVOBE Subcontractor which has executed a Letter of Intent approved by the Awarding Authority, (ii) cause its Subcontractors to execute a sub-subcontract with each MBE, WBE, and/or VBE/SDVOBE sub-subcontractor, and (iii) furnish the Awarding Authority with a signed copy of each such subcontract and sub-subcontract.

### **5. PERFORMANCE OF CONTRACT WORK BY MBEs, WBEs, AND/OR VBEs/SDVOBEs**

- A. The Contractor shall not perform with its own organization or subcontract or assign to any other firm work designated to be performed by any MBE, WBE, and/or VBE/SDVOBE in the Letters of Intent or Schedule of Participation without the prior approval of the Awarding Authority, nor shall any MBE, WBE, and/or VBE/SDVOBE assign or subcontract to any other firm, or permit any other firm to perform any of its MBE, WBE, and/or VBE/SDVOBE Work without the prior approval of the Awarding Authority. Any such unapproved assignment, subcontracting, sub-subcontracting, or performances of MBE, WBE, and/or VBE/SDVOBE Work by others shall be a change in the MBE, WBE, and/or VBE/SDVOBE Work for the purposes of this Contract. **THE AWARDING AUTHORITY WILL NOT APPLY TO THE MBE, WBE, AND/OR VBE/SDVOBE PARTICIPATION GOAL(S) ANY SUMS ATTRIBUTABLE TO SUCH UNAPPROVED**

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<sup>13</sup> Should the Awarding Authority suspect a transfer of ownership to be in bad faith to take advantage of the MCAMP program, it reserves all available legal remedies, including but not limited to, termination of this contract. The Awarding Authority further reserves the right to enforce MCAMP and VBP participation goals to the fullest extent of the law, including, but not limited to, coordinating with the Massachusetts Office of the Attorney General.

**ASSIGNMENTS, SUB-CONTRACTS, SUB-SUBCONTRACTS, OR PERFORMANCE OF MBE, WBE, AND/OR VBE/SDVOBE WORK BY OTHERS.**

- B. The Contractor shall be responsible for monitoring the performance of MBE, WBE, and VBE/SDVOBE Work to ensure that each scheduled MBE, WBE, and/or VBE/SDVOBE performs its own MBE, WBE, and/or VBE/SDVOBE Work with its own workforce.
- C. The Contractor and each MBE, WBE, and VBE/SDVOBE shall provide the Awarding Authority with all information and documentation that the Awarding Authority determines is necessary to ascertain whether or not an MBE, WBE, and/or VBE/SDVOBE has performed its own MBE, WBE, and/or VBE/SDVOBE Work. At the discretion of the Awarding Authority, failure to submit such documentation to the Awarding Authority shall establish conclusively for the purpose of giving MBE, WBE, and/or VBE/SDVOBE participation credit under this Contract that such MBE, WBE, and/or VBE/SDVOBE did not perform such work.
  - (1) With each progress payment request submitted by the Contractor to the Awarding Authority, the Contractor must provide a progress payment report that indicates the value of payments for each MBE, WBE, and VBE/SDVOBE firms for that period. Should it be deemed more efficient, the Awarding Authority may instruct the Contractor to utilize a different payment reporting methodology, including, but not limited to, an online reporting system.
  - (2) The Contractor, as well as any lower-tier firms engaged to complete the Contract, must utilize the SDO's online reporting system, presently known as 'The Hub.'

**6. NOTIFICATION OF CHANGES IN MBE, WBE, AND/OR VBE/SDVOBE WORK**

- A. If, at any time during the performance of the Contract, the Contractor determines or has reason to believe that a scheduled MBE, WBE, and/or VBE/SDVOBE is unable or unwilling to perform its MBE, WBE, and/or VBE/SDVOBE Work, or that there has been or will be a change in any MBE, WBE, and/or VBE/SDVOBE Work, or that the Contractor will be unable to meet the MBE, WBE, and/or VBE/SDVOBE participation goal(s) for this Contract for any reason, the Contractor shall immediately notify the Awarding Authority's responsible party for contract compliance in writing of such circumstances.
- B. Any notice of a change in MBE, WBE, and/or VBE/SDVOBE Work pursuant to subparagraph "A" above shall include a revised Schedule for Participation, and additional or amended Letters of Intent and subcontracts, as the case may be.
- C. Contractor must conduct reasonable efforts to replace MBE, WBE, and/or VBE/SDVOBE contractors in order to meet the participation goals set for this contract as stated below when doing so will not result in unreasonable project delay. Contractor shall coordinate with the Awarding Authority and the SDO to locate other MBE, WBE, and/or VBE/SDVOBE contractors to participate on the project in the event a listed MBE, WBE, and/or VBE/SDVOBE should lose its certification status during the contract and be unable to recertify within a timely manner.

**7. ACTIONS REQUIRED IF THERE IS A CHANGE IN MBE, WBE, AND/OR VBE/SDVOBE PARTICIPATION**

- A. In the event there is a change or reduction in any MBE, WBE, and/or VBE/SDVOBE Work which will result in the Contractor failing to meet the MBE, WBE, and/or VBE/SDVOBE participation goal(s) for this Contract, other than a reduction in MBE, WBE, and/or VBE/SDVOBE Work resulting from a Change Order initiated by the Awarding Authority, then the Contractor shall immediately undertake a diligent, good faith effort to make up the shortfall in MBE, WBE, and/or VBE/SDVOBE participation as follows:

- (1) The Contractor shall identify all items of the Work remaining to be performed under the Contract that may be made available for subcontracting to MBEs, WBEs, and/or VBEs/SDVOBEs. The Contractor shall send a list of such items of work to the Awarding Authority, together with a list of the remaining items of the Work that was not made available to MBEs, WBEs, and/or VBEs/SDVOBEs and the reason for not making such work available for subcontracting to MBEs, WBEs, and/or VBEs/SDVOBEs.
- (2) The Contractor shall send written notices soliciting proposals to perform the items of the Work that may be made available for subcontracting to MBEs, WBEs, and/or VBEs/SDVOBEs to all MBEs, WBEs, and/or VBEs/SDVOBEs qualified to perform such work. The Contractor shall advise the Awarding Authority of
  - (i) each MBE, WBE, and/or VBE/SDVOBE solicited;
  - (ii) each MBE, WBE, and/or VBE/SDVOBE listed in the SDO directory under the applicable trade category that was not solicited; and
  - (iii) the reasons therefore that no qualified MBEs, WBEs, and/or VBEs/SDVOBEs are available; that qualified MBEs, WBEs, and/or VBEs/SDVOBEs did not respond; that there is a lack of eligible MBEs, WBEs, and/or VBEs/SDVOBEs in the geographical region; or there are no certified MBEs, WBEs, and/or VBEs/SDVOBEs certified in the scope of work of the project including the opportunity for subcontracting.

The Contractor shall also advise the Awarding Authority of the dates notices were mailed and provide a copy of the written notice(s) sent.

- (3) The Contractor shall make reasonable efforts to follow up the written notices sent to MBEs, WBEs, and/or VBEs/SDVOBEs with telephone calls or personal visits in order to determine with certainty whether the MBEs, WBEs, and/or VBEs/SDVOBEs were interested in performing the work. Phone logs or other documentation must be submitted to the Awarding Authority to verify this effort.
  - (4) The Contractor shall make reasonable efforts to assist MBEs, WBEs, and/or VBEs/SDVOBEs that, in order to perform work under the Contract, need assistance in obtaining insurance, bonds, or lines of credit and shall provide the Awarding Authority with evidence that such efforts were made.
  - (5) The Contractor shall provide the Awarding Authority with a statement of the response received from each MBE, WBE, and/or VBE/SDVOBE solicited, including the reason for rejecting any MBE, WBE, and/or VBE/SDVOBE that submitted a proposal.
  - (6) The Contractor shall take any additional measures reasonably requested by the Awarding Authority to meet the MBE, WBE, and/or VBE/SDVOBE participation goal(s) established for this Contract, including, without limitation, placing advertisements in the Supplier Diversity Hub and in appropriate media and trade association publications announcing the Contractor's interest in obtaining proposals from MBEs, WBEs, and/or VBEs/SDVOBEs, and/or sending written notification to MBE, WBE, and/or VBE/SDVOBE economic development assistance agencies, trade groups, and other organizations notifying them of the project and of the work available to be subcontracted by the Contractor to MBEs, WBEs, and/or VBEs/SDVOBEs.
- B. If, after complying fully with each of the requirements of paragraph "A" above, the Contractor is otherwise in full compliance with the terms of this Appendix but is unable to meet the MBE, WBE, and/or VBE/SDVOBE participation goals for this Contract, the Awarding Authority, with the written approval of the SDO, may adjust the MBE, WBE, and/or VBE/SDVOBE participation goals for this Contract to the extent that such goals cannot be achieved, as referenced in Attachment C.

## **8. SUSPENSION OF PAYMENT AND/OR PERFORMANCE FOR NONCOMPLIANCE**

- A. If, at any time during the performance of this Contract, the Awarding Authority determines or has reason to believe that (1) there has been a change or reduction in any MBE, WBE, and/or VBE/SDVOBE Work which will result in the Contractor failing to meet the MBE, WBE, and/or VBE/SDVOBE participation goal(s) for this Contract, other than a reduction in MBE, WBE, and/or VBE/SDVOBE Work resulting from a change in the Contract work ordered by the Awarding Authority, and (2) the Contractor has failed to comply fully with all of the terms and conditions of paragraphs 1 through 7 above, the Awarding Authority may:
  - (1) Suspend payment to the Contractor of an amount equal to the value of the work which was to have been performed by an MBE, WBE, and/or VBE/SDVOBE pursuant to the Contractor's Schedule for Participation for MBEs, WBEs, and VBEs/SDVOBEs but which was not so performed, in order to ensure that sufficient Contract funds will be available if liquidated damages are assessed pursuant to paragraph 9, and/or
  - (2) Suspend the Contractor's performance of this Contract in whole or in part.
- B. The Awarding Authority shall give the Contractor prompt written notice of any action taken pursuant to paragraph A above and shall give the Contractor and any other interested party, including any MBEs, WBEs, and/or VBEs/SDVOBEs, an opportunity to present evidence to the Awarding Authority that the Contractor is in compliance with the requirements of this Appendix or that there is some justifiable reason for waiving the requirements of this Appendix in whole or in part. The Awarding Authority may invite the SDO to participate in any proceedings undertaken pursuant to this paragraph.
- C. Upon a showing that the Contractor is in full compliance with the requirements of this Appendix, or that the Contractor has met or will meet the MBE, WBE, and VBE/SDVOBE participation goals for this Contract, the Awarding Authority shall release any funds withheld pursuant to clause A (1) above and lift any suspension of the Contractor's performance under clause A (2) above.

**9. LIQUIDATED DAMAGES; TERMINATION**

- A. If payment by the Awarding Authority or performance by the Contractor is suspended by the Awarding Authority as provided in paragraph 8 above, the Awarding Authority shall have the following rights and remedies if the Contractor thereafter fails to take all action necessary to bring the Contractor into full compliance with the requirements of this Appendix, or if full compliance is no longer possible because the default of the Contractor is no longer susceptible to cure, if the Contractor fails to take such other action as may be required by the Awarding Authority to meet the MBE, WBE, and VBE/SDVOBE participation goals set forth in this Contract:
  - (1) The Awarding Authority may terminate this Contract, and/or
  - (2) The Awarding Authority may retain from final payment to the Contractor, as liquidated damages, an amount equal to the difference between:
    - (a) The total of the MBE, WBE, and VBE/SDVOBE participation goals set forth in this Contract, and
    - (b) The amount of MBE, WBE, and VBE/SDVOBE participation credit earned by the Contractor for MBE, WBE, and/or VBE/SDVOBE Work performed under this Contract as determined by the Awarding Authority, the parties agreeing that the damages for failure to meet the MBE, WBE, and VBE/SDVOBE participation goals are difficult to determine and that the foregoing amount to be retained by the Awarding Authority represents the parties' best estimate of such damages. Any liquidated damages will be assessed separately for MBE, WBE, and VBE/SDVOBE participation.

- B. Before exercising its rights and remedies hereunder, the Awarding Authority may give the Contractor and any other interested party another opportunity to present evidence to the Awarding Authority that the Contractor is in compliance with the requirements of this Appendix or that there is some justifiable reason for waiving the requirements of this Appendix in whole or in part. The Awarding Authority may invite the SDO to participate in any proceedings undertaken hereunder.

#### **10. REPORTING REQUIREMENTS**

- A. The Contractor shall submit to the Awarding Authority all information or documentation that is necessary in the judgment of the Awarding Authority to ascertain whether or not the Contractor has complied with any of the provisions of this Article.
- B. The Contractor shall provide, in the forms and formats required by the Owner and by the SDO, regular reports of information pertaining to the businesses engaged in work under this contract.
- C. The Contractor shall provide the SDO with, and permit the SDO access to, any such information, records, accounts, or documents requested by the SDO.
- D. The Contractor shall include these provisions in any contract or agreement used to fulfill any aspect of this contract.
- E. The Contractor shall utilize the SDO's online reporting system, presently known as 'The Hub.'

#### **11. AWARDING AUTHORITY'S RIGHT TO WAIVE PROVISIONS OF THIS APPENDIX IN WHOLE OR IN PART**

The Awarding Authority reserves the right to waive any provision or requirement of this Appendix if the Awarding Authority determines that such waiver is justified and in the public interest. No such waiver shall be effective unless it has been submitted by the Awarding Authority in writing to and subsequently approved in writing by the SDO's Executive Director. No other action or inaction by the Awarding Authority shall be construed as a waiver of any provision of this Appendix.

# ATTACHMENT E

## Request Goals for a Design or Construction Project

The Municipal Construction Affirmative Marketing Program (MCAMP) and Veteran Business Program require political subdivisions to incorporate Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Veteran Business Enterprise (VBE)/Service-Disabled Veteran Business Enterprise (SDVOBE) goals into both the design and construction procurements for state-assisted<sup>14</sup> contracts for the construction, reconstruction, alteration, remodeling, repair, or demolition of any public building by any political subdivision.

Information must be provided as soon as possible to ensure goals are set properly. Allow up to 10 business days for turn-around time. **Do not procure your designer or constructor prior to receiving the assigned goals from the SDO.** To request the SDO-assigned project goals, follow the instructions below.

### Design Projects

Email [SDO.Construction@mass.gov](mailto:SDO.Construction@mass.gov) the following:

- Estimated total project cost
- Estimated designer fee
- Project type (House Doctor or straight design)
- Primary discipline (architecture, engineering, mechanical, etc.)
- Split between primary disciplines (ex. 60% architecture, 40% engineering)
- Copy of the RFQ/designer RFS

### Construction Projects

Email [SDO.Construction@mass.gov](mailto:SDO.Construction@mass.gov) the following:

- Reconciled estimate/construction documents in CSI format
  - UniFormat estimates are not accepted
  - These documents must be the most recent estimate available prior to bidding. If there are extenuating circumstances (e.g., fast-tracking), explain as much in the body of the email. **Do not bid out the project without the project-specific goals provided by the SDO.**
- Source of state financial assistance
- Email addresses for
  - the project owner,
  - the owner's project manager, and
  - any other individuals to be carbon copied on SDO-related correspondence

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<sup>14</sup> That is, any funding/financial support, whether in whole or in part, provided by the Commonwealth.